

59-13-202.5 Refunds of tax due to fire, flood, storm, accident, crime, discharge in bankruptcy, or mixing of fuels -- Filing claims and affidavits -- Commission approval -- Rulemaking -- Appeals -- Penalties.

- (1)
- (a) A retailer, wholesaler, or licensed distributor, who without fault, sustains a loss or destruction of 8,000 or more gallons of motor fuel in a single incident due to fire, flood, storm, accident, or the commission of a crime and who has paid or is required to pay the tax on the motor fuel as provided by this part, is entitled to a refund or credit of the tax subject to the conditions and limitations provided under this section.
 - (b) The claimant shall file a claim for a refund or credit with the commission within 90 days of the incident.
 - (c) Any part of a loss or destruction eligible for indemnification under an insurance policy for the taxes paid or required on the loss or destruction of motor fuel is not eligible for a refund or credit under this section.
 - (d) Any claimant filing a claim for a refund or credit shall furnish any or all of the information outlined in this section upon request of the commission.
 - (e) The burden of proof of loss or destruction is on the claimant who shall provide evidence of loss or destruction to the satisfaction of the commission.
 - (f)
 - (i) The claim shall include an affidavit containing the:
 - (A) name of claimant;
 - (B) claimant's address;
 - (C) date, time, and location of the incident;
 - (D) cause of the incident;
 - (E) name of the investigating agencies at the scene;
 - (F) number of gallons actually lost from sale; and
 - (G) information on any insurance coverages related to the incident.
 - (ii) The claimant shall support the claim by submitting the original invoices or copy of the original invoices.
 - (iii) This original claim and all information contained in it constitutes a permanent file with the commission in the name of the claimant.
- (2)
- (a) A retailer, wholesaler, or licensed distributor who has paid the tax on motor fuel as provided by this part is entitled to a refund for taxes paid on that portion of an account that:
 - (i) relates to 4,500 or more gallons of motor fuel purchased in a single transaction for which no payment has been received; and
 - (ii) has been discharged in a bankruptcy proceeding.
 - (b) The claimant shall file a claim for refund with the commission within 90 days from the date of the discharge.
 - (c) Any claimant filing a claim for a refund shall furnish any or all of the information outlined in this section upon request of the commission.
 - (d) The burden of proof of discharge is on the claimant who shall provide evidence of discharge to the satisfaction of the commission.
 - (e) The claim shall include an affidavit containing the following:
 - (i) the name of the claimant;
 - (ii) the claimant's address;
 - (iii) the name of the debtor that received a discharge in bankruptcy; and
 - (iv) the portion of the account that is subject to an order granting a discharge.

- (f) The claimant shall support the claim by submitting:
 - (i) the original invoices or a copy of the original invoices; and
 - (ii) a certified copy of the notice of discharge.
 - (g) This original claim and all information contained in it constitutes a permanent file with the commission in the name of the claimant.
 - (h) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall promulgate rules for the allocation of the discharge under this Subsection (2) to maximize the claimant's refund amount.
- (3)
- (a) Subject to the conditions and limitations of this section, a retailer, wholesaler, or licensed distributor is entitled to a refund or credit of motor fuel tax if:
 - (i) dyed diesel fuel or special fuel is mixed with motor fuel; and
 - (ii) the retailer, wholesaler, or licensed distributor:
 - (A) returns the mixed motor fuel to the refinery for re-refining; and
 - (B) has paid the tax on the motor fuel as provided by this part.
 - (b) The claimant shall file a claim for a refund or credit with the commission within 90 days of the date the motor fuel was returned to the refinery for re-refinement.
 - (c) Any claimant filing a claim for a refund or credit shall furnish any or all of the information outlined in this section upon request of the commission.
 - (d) The burden of proof that the motor fuel was returned to the refinery for re-refinement is on the claimant who shall provide evidence to the satisfaction of the commission that the motor fuel was returned to the refinery for re-refinement.
- (e)
- (i) The claim shall include an affidavit containing the:
 - (A) name of claimant;
 - (B) claimant's address;
 - (C) date, time, and location of the incident;
 - (D) nature of the incident; and
 - (E) number of gallons actually required to be re-refined.
 - (ii) The claimant shall support the claim by submitting written verification from a refinery that:
 - (A) the motor fuel mixed with the dyed diesel fuel or special fuel was returned to the refinery for re-refinement; and
 - (B) motor fuel tax was paid on the returned motor fuel.
 - (iii) The claim filed pursuant to Subsection (3)(b) and all information contained in it constitutes a permanent file with the commission in the name of the claimant.
- (4)
- (a) Upon commission approval of the claim for a refund, the commission shall pay the amount found due to the claimant.
 - (b) The total amount of claims for refunds shall be paid from the Transportation Fund.
- (5)
- (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may:
 - (i) promulgate rules to enforce this part; and
 - (ii) refuse to accept unsubstantiated evidence for the claim.
 - (b) If the commission is not satisfied with the evidence submitted in connection with the claim, it may:
 - (i) reject the claim; or
 - (ii) require additional evidence.

- (6) Any person aggrieved by the decision of the commission with respect to a refund or credit may file a request for agency action, requesting a hearing before the commission.
- (7)
 - (a) Any person who makes any false claim, report, or statement, either as claimant, agent, or creditor, with intent to defraud or secure a refund or credit to which the claimant is not entitled, is subject to the criminal penalties provided under Section 59-1-401, and the commission shall initiate the filing of a complaint for alleged violations of this part.
 - (b) In addition to the penalties under Subsection (7)(a), the person may not receive any refund or credit as a claimant or as a creditor of a claimant for refund or credit for a period of five years.
- (8) Any refund or credit made under this section does not affect any deduction allowed under Section 59-13-207.

Amended by Chapter 134, 2008 General Session

Amended by Chapter 382, 2008 General Session